

Williams, Patricia CIV JFHQ-NCR/MDW SJA

From: Lind, Denise R COL USARMY (US) (b) (6)
Sent: Monday, March 12, 2012 2:11 PM
To: Williams, Patricia CIV JFHQ-NCR/MDW SJA
Subject: FW: CSO Comment/Recommendation (UNCLASSIFIED)
Signed By: (b)(6)

Classification: UNCLASSIFIED

Caveats: NONE

Tricia,

Pls include this email from Mr. Prather as an AE.

Thank you,
D

Denise R. Lind
COL, JA
Chief Judge, 1st Judicial Circuit

-----Original Message-----

From: Lind, Denise R COL USARMY (US)
Sent: Friday, February 24, 2012 10:34 AM
To: 'Prather, Jay R Mr CIV USA OSA'
Subject: RE: CSO Comment/Recommendation (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mr. Prather,

Thank you. I will take this under advisement and pass on to counsel for both sides.

D

Denise R. Lind
COL, JA
Chief Judge, 1st Judicial Circuit

(b)(6)

-----Original Message-----

From: (b)(6)
Sent: Friday, February 24, 2012 9:04 AM
To: Lind, Denise R COL MIL USA OSA
Subject: CSO Comment/Recommendation (UNCLASSIFIED)

Ma'am,

I received an "Un-deliverable" from my Office e-mail.

V/r

Jay R. Prather

-----Original Message-----

From: Prather, Jay R Mr CIV USA DCS G-2
Sent: Friday, February 24, 2012 8:57 AM
To: Lind, Denise R COL MIL USA OTJAG
Subject: CSO Comment/Recommendation (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Ma'am,

After a few hours (overnight) to think things over, as the CSO, I feel the need To express comments / recommendations in response to yesterday's arraignment proceedings (motions).

I understand this e-mail/correspondence may become part of court records and will probably Need to be presented to both the Trial and Defense counsel teams.

I hope I have not mis-construed the defense's motion to basically, have the CSO be the Classification Decision authority for the Court. I do not recall the exact verbiage in the motion and understand That the decision on said motion is pending.

Only the Original Classification decision Authority (OCA), the entity who owns the data, can Make the decision as to what is classified or not classified, and if it is classified, declassify that said data.

With that said, My recommendation is as follows:

- 1) The Security personnel assigned, Defense, Trial Counsel or CSO should not be placed into a position To make a Security Classification decision without first consultation with the OCA for that Data. Be it through Direct consultation with the OCA or in-depth review of OCA Classification determinations provided thus far In the case.
- 2) Any Motion, ex parte etc., by either side (Trial Counsel, Defense) should have an OCA review/determination Prior to submission to the Court. This will prevent any potential "Leakage" of classified data into an Open Court document, etc. This further protects the Court and yourself as the Judge.
- 3) The Court require a statement/certification to the effect of such review in (2) above be included within the Motion, ex parte etc...This should preclude any potential Perjury or conflict of interest issues. In the case of Defense counsel, I would further recommend that this statement be signed by the Military counsel assigned, I do not think Mr. Coombs, as a Civilian Lawyer, would be able to "Certify" on behalf of the Government.

I am available to discuss further if necessary.

V/r

Jay R. Prather
Senior Program Protection Architect
DAMI-CDS/ARTPC

(b)(6)

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